

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF ILLINOIS**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
vs.	)	Case No. 01-cr-40017-JPG
	)	
DEREK A. WAITHE,	)	
	)	
Defendant.	)	

**ORDER**

This matter comes before the Court on defendant Derek A. Waithe's Motion for Reduction and to Appoint Counsel [Doc. 584]. The Court informed the defendant that the relief he sought was only available through a 28 U.S.C. § 2255 motion and informed the defendant that if he did not withdraw his motion, the Court would construe it as motion pursuant to § 2255. [Doc. 585]. The defendant did not file a response in his criminal case; however, he did file a § 2255 motion. *See Derek A. Waithe v. United States*, 17-cv-00619-JPG (ILSD 2017).

Defendant's § 2255 motion was dismissed May 23, 2017, for lack of jurisdiction. Defendant had previously filed a § 2255 and until such time as the Seventh Circuit Court of Appeal authorizes the petitioner to file a successive petition, this Court did not have jurisdiction to entertain his successive § 2255 motion.

The defendant has not specifically indicated to the Court that he wishes to withdraw his motion; however, he did file a separate § 2255 which included the same issues making the motion at bar moot. Therefore, defendant Derek A. Waithe's Motion for Reduction and to Appoint Counsel [Doc. 584] is **DIMISSED** as moot.

**IT IS SO ORDERED.**

**DATED:** 6/20/2017

s/J. Phil Gilbert  
**J. PHIL GILBERT**  
**DISTRICT JUDGE**